

## § 38.15

representative of the institution, and the Bureau school supervisor. In the case of volunteer groups, the agreement shall be signed by an official of the volunteering organization, the Bureau school supervisor, and the school board and a list of signatures and emergency telephone numbers of all participants shall be attached.

(c) *Eligibility.* Although no minimum age requirement exists for volunteers, schools shall comply with appropriate Federal and State laws and standards on using the services of minors. All volunteers under the age of 18 must obtain written permission from their parents or guardians to perform volunteer activities.

(d) *Status.* Volunteers participating under this part are not considered Federal employees for any purpose other than:

(1) Title 5 U.S.C. chapter 81, dealing with compensation for injuries sustained during the performance of work assignments.

(2) Federal tort claims provisions published in 28 U.S.C. chapter 171.

(3) Department of the Interior Regulations Governing Responsibilities and Conduct.

(e) *Travel and other expenses.* The decision to reimburse travel and other incidental expenses, as well as the amount of reimbursement, shall be made by the school supervisor, ASE, AEPA, and the respective school board. Payment is made in the same manner as for regular employees. Payment of travel and per diem expenses to a volunteer on a particular assignment must be supported by a specific travel authorization and cannot exceed the cost of employing a temporary employee of comparable qualification at the school for which a travel authorization is considered.

(f) *Annual report.* School supervisors shall submit reports on volunteers to the ASE or AEPA by October 31 of each year for the preceding year.

### § 38.15 Southwestern Indian Polytechnic Institute.

(a) The Southwestern Indian Polytechnic Institute has an independent personnel system established under Public Law 105-337, the Administrative Systems Act of 1998, 112 Stat. 3171. The

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details of this system are in the Indian Affairs Manual (IAM) at Part 20. This manual system may be found in Bureau of Indian Affairs Regional and Agency Offices, Education Line Offices, and the Central Office in Washington, DC.

(b) The personnel system is in the excepted service and addresses the areas of classification, staffing, pay, performance, discipline, and separation. Other areas of personnel such as leave, retirement, life insurance, health benefits, thrift savings, etc., remain under the jurisdiction of the Office of Personnel Management.

[65 FR 58183, Sept. 27, 2000]

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AUTHORITY: 25 U.S.C. 13, 2008; Public Law 107-110, 115 Stat. 1425.

SOURCE: 44 FR 61864, Oct. 26, 1979, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

### Subpart A—General

SOURCE: 70 FR 22205, Apr. 28, 2005, unless otherwise noted.

#### § 39.1 What is the purpose of this part?

This part provides for the uniform direct funding of Bureau-operated and tribally operated day schools, boarding schools, and dormitories. This part applies to all schools, dormitories, and administrative units that are funded through the Indian School Equalization Program of the Bureau of Indian Affairs.

#### § 39.2 What definitions apply to terms in this part?

*Act* means the No Child Left Behind Act, Public Law 107-110, enacted January 8, 2002. The No Child Left Behind Act reauthorizes and amends the Elementary and Secondary Education Act (ESEA) and the amended Education Amendments of 1978.

*Agency* means an organizational unit of the Bureau which provides direct services to the governing body or bodies and members of one or more specified Indian Tribes. The term includes Bureau Area Offices only with respect to off-reservation boarding schools administered directly by such Offices.

*Agency school board* means a body, the members of which are appointed by the school boards of the schools located within such agency, and the number of such members shall be determined by the Director in consultation with the

affected tribes, except that, in agencies serving a single school, the school board of such school shall fulfill these duties.

*Assistant Secretary* means the Assistant Secretary of Indian Affairs, Department of the Interior, or his or her designee.

*At no cost* means provided without charge, but does not preclude incidental fees normally charged to non-disabled students or their parents as a part of the regular education program.

*Average Daily Membership (ADM)* means the aggregated ISEP-eligible membership of a school for a school year, divided by the number of school days in the school's submitted calendar.

*Basic program* means the instructional program provided to all students at any age level exclusive of any supplemental programs that are not provided to all students in day or boarding schools.

*Basic transportation miles* means the daily average of all bus miles logged for round trip home-to-school transportation of day students.

*Bureau* means the Bureau of Indian Affairs in the Department of the Interior.

*Bureau-funded school* means

(1) Bureau school;

(2) A contract or grant school; or

(3) A school for which assistance is provided under the Tribally Controlled Schools Act of 1988.

*Bureau school* means a Bureau-operated elementary or secondary day or boarding school or a Bureau-operated dormitory for students attending a school other than a Bureau school.

*Count Week* means the last full week in September during which schools count their student enrollment for ISEP purposes.

*Director* means the Director of the Office of Indian Education Programs in the Bureau of Indian Affairs or a designee.

*Education Line Officer* means the Bureau official in charge of Bureau education programs and functions in an Agency who reports to the Director.

*Eligible Indian student* means a student who:

(1) Is a member of, or is at least one-fourth degree Indian blood descendant